

Please replace the paragraph beginning at page 11, line 10, with the following rewritten paragraph:

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1  
Q5

In a brewery, there is a line where a beer keg 1 incorporated with the down tube 13 is automatically washed and draft beer is automatically filled in the beer keg 1. Similarly, the beer keg 1 of the present invention is automatically washed and filled with draft beer by using the above-mentioned line. The beer keg 1 filled with the draft beer is stored in a refrigerator for shipping to forcibly cool beer in the beer keg 1 through the face Cz. In shipping, as shown in Figure 3, the upper face of the inner cylinder upper plate 3 of the beer keg 1 is covered with an adiabatic mat 14 to keep low temperature. The beer keg 1 is kept in a proper standing posture, so that temperature of draft beer filled in the beer keg 1 does not substantially rise due to the fact that draft beer is heat-insulated by the vacuum layer between the beer keg 1 and the outer cylinder shell 8. After the beer keg 1 of the present invention is supplied to and stored in a tavern, beer is kept cool in a refrigerator in an inverted posture or horizontal posture. Draft beer is cooled through the face Cz of the inner cylinder upper plate 3, so that the draft beer can be effectively forcibly cooled.

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Please replace the paragraph beginning at page 15, line 6, with the following rewritten paragraph:

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Q6

The products that are placed in sealed containers such as the beer keg 1, according to the present invention, are preferably intended for use at less than 100 pounds per square inch at 70 degrees Fahrenheit. Preferably, the products in the sealed containers according to the present invention are pressurized between 5 and 90 pounds per square inch, or preferably between 10 and 80 pounds per square inch at 70 degrees Fahrenheit.

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In the Claims:

Please amend Claim 1 as follows:

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Q7  
Q8

A method for determining the level of a carbonated fluid in a container comprising:

obtaining a container having an outlet for a first carbonated fluid and an inlet for introducing carbon dioxide;  
said container having a first carbonated fluid region therein;  
a first carbonated fluid being present at an original level in said first carbonated fluid region of said container;

said container, for when in use, having said first carbonated fluid at least partially removed from said container while introducing carbon dioxide to said container thereby forming a second carbonated fluid region;

placing on at least one exterior surface of said container at least one temperature-measuring device;

at least one said temperature-measuring device being located in a region of said container where said second carbonated fluid region is formed by removal of said first carbonated fluid;

initially observing a first temperature in said first carbonated fluid region of said container when said first carbonated fluid is present in said first carbonated fluid region of said container;

subsequently observing a second temperature in said second carbonated fluid region of said container after a portion of said first carbonated fluid has been removed;  
and,

correlating the difference between said first temperature and said second temperature to the level of said first carbonated fluid in said container.

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Please cancel Claim 4.

Please cancel Claim 5.

Please cancel Claim 7.

Please cancel Claim 9.

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Please amend Claim 10 as follows:

The method for determining the level of said first fluid in said container according to claim 1 wherein said container is in a refrigerator.

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Please cancel Claim 12.

Please amend Claim 13 as follows:

Q9  
The method for determining the level of said first fluid in said container according to claim 1 additionally comprising the step of wiping the temperature-measuring device with a water moistened cloth wherein the temperature of the water moistened cloth is less than 105 ° F.

Please amend Claim 17 as follows:

Q10  
The temperature-measuring device according to claim 15 wherein said device measures temperatures in the range of about 34 ° F to about 94 ° F.

Please amend Claim 23 as follows

Q11  
A fluid dispensing assembly comprising:  
a sealed container, for when in use, containing a liquid under pressure;  
said sealed container having an outlet for a first carbonated fluid and an inlet for introducing carbon dioxide  
said sealed container having an exterior surface;  
said exterior surface of said sealed container having a heightwise dimension and a widthwise dimension;  
at least one temperature-measuring device positioned heightwise dimension on said exterior surface, provided further that said temperature-measuring device measures temperatures in the range of about 34 ° F to about 94 ° F.

Please cancel Claim 27.

Please cancel Claim 28.

Please cancel Claim 29.

Please cancel Claim 30.

Please add new Claim 31

Q12  
Con4  
New Claim 31. A method for determining the level of fluid in a container comprising:

obtaining a container having an outlet for a first fluid and an inlet for a second fluid;

said container having a first fluid region therein;

a first fluid being present at an original level in said first fluid region of said container;

said container, for when in use, having said first fluid at least partially removed from said container thereby forming a second fluid region;

placing on at least one exterior surface of said container at least one single thermometric temperature-measuring device;

at least one said single thermometric temperature-measuring device being located in a region of said container where said second fluid region is formed by removal of said first fluid;

initially observing a first temperature in said first fluid region of said container when said first fluid is present in said first fluid region of said container;

subsequently observing a second temperature in said second fluid region of said container after a portion of said first fluid has been removed; and,

correlating the difference between said first temperature and said second temperature to the level of said first fluid in said container.

[Please add new Claim 32]

New Claim 32. The method for determining the level of said first fluid in said container according to claim 31 additionally comprising the step of wiping the temperature-measuring device with a water moistened cloth wherein the temperature of the water moistened cloth is less 105 ° F.

[Please add new Claim 33]

New Claim 33. The method for determining the level of said first fluid in said container according to claim 31 wherein the pressure within said container at 70 ° F is about 5 pounds per square inch to about 100 pounds per square inch.

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#### Discussion of the Objections to the Specification

The Examiner has objected to the specification and has suggested correction of the following informalities:

Page 10, line 3 --materials-- should be inserted after "eutectic"

Page 15, line 8 "to" needs to be deleted.

Page 8, to keep uniformity it is suggested that the applicant keeps "Figure" as all lower case or all upper case letters.

Each of the foregoing corrections has been made.

#### Discussion of the Claim Objections

Claim 5 has been cancelled therefore the rejection thereto is moot.

Claim 7 has been cancelled therefore the rejection thereto is moot.

Claim 13 has been amended at the Examiner's suggestion.

Claim 17 has been amended at the Examiner's suggestion.

#### Rejections under 35 U.S.C. 112

Claim 9 is rejected under the second paragraph of the above-quoted statute.

Claim 9 has been cancelled therefore the rejection thereto is moot.

Claims 15, 16, 19, and 20 are rejected under the second paragraph of the above-quoted statute. The Examiner has stated that each of the foregoing claims recites a range within a range having both a broad range and a narrow range within the broad range. No amendment has been made to claims 15, 16, 19, and 20. By way of explanation regarding the claims (15 in particular) the width to height recited as about 0.5 to about 10 to about 1 to about 5 may be equivalently written as 1:20 to about 1:5 meaning that a one inch wide strip should be from five to 20 inches in height. The foregoing rejection should therefore be removed.

Claim 30 has been cancelled therefore the rejection thereto is moot.

#### Status of the Claims

Claims 1 through 3 inclusive, claim 6, claim 8, claim 10, claim 11, claims 13 through 26 inclusive, and claims 31 through 33 inclusive are pending and reconsider-

ation of all objections and rejections to these claims is requested. Claims 4, 5, 7, 9, 12, and claims 27 through 30 inclusive have been cancelled without prejudice. New claims 31 through 33 inclusive recite that the claimed device functions at a single temperature and not a range of temperatures as is shown in the cited references. The single temperature permits ease in device manufacture and a bright line determination of the volume reading.

#### The Rejections under 35 U.S.C. 102

The Examiner has rejected claims 23 through 26 inclusive as lacking novelty based on Paron et al. United States Patent 5,738,442 {hereinafter the Paron et al. patent). Regarding claim 23 Paron et al., the Examiner states that the Paron et al. patent discloses a sealed container, for when in use, containing a liquid under pressure, the sealed container having an exterior surface, the exterior surface of the sealed container having a heightwise dimension and a widthwise dimension and at least one temperature-measuring device positioned heightwise dimension on said exterior surface, provided further that said temperature-measuring device measures temperatures in the range of about 34°F to about 94°F.

Claims 23 through 26 inclusive have been amended to recite that the applicant's sealed container has an outlet for a first carbonated fluid and an inlet for introducing carbon dioxide. There is no reference in the Paron et al. patent to carbonation or any mechanism to introduce carbonation into the container described in the Paron et al. patent. Therefore, the novelty rejection to claims 23 through 26 inclusive based on the Paron et al. patent should be removed.

Claims 23 and 24 are rejected as lacking novelty based on Brown et al. United States Patent 6,260,414 {hereinafter the Brown et al. patent). Claims 23 through 26 inclusive have been amended to recite that the applicant's sealed container has an outlet for a first carbonated fluid and an inlet for introducing carbon dioxide. There is no reference in the Brown et al. patent to carbonation or any mechanism to introduce carbonation into the container described in the Brown et al. patent. Therefore, the

novelty rejection to claims 23 through 26 inclusive based on the Brown et al. patent should be removed.

Claims 27 through 30 inclusive have been cancelled thus any rejections thereto are moot.

#### The Rejections under 35 U.S.C. 103

Claims 1 through 6 inclusive and claims 9 through 14 inclusive are rejected as being obvious over United States Patent 6,119,464 to Nakayama et al. {hereinafter the Nakayama et al. patent) in view of the Brown et al. patent.

The Examiner directs the applicant to Figure 12 of the Nakayama et al. patent. The disclosure of the Nakayama et al. patent states:

For example, beer or other beverage in a barrel 37 has conventionally been served through a cock 7 into a mug or other cup after rapidly cooling from room temperature to a suitable temperature by passing through an instantaneously cooling server 33 as shown in FIG. 12. Nakayama et al. patent Column 1, lines 16-20.

The Nakayama et al. patent actually discloses keeping the liquid and any gas in the container shown in FIG. 12 at the same temperature as any cooling takes place in the tap away from the container. Thus, one skilled in the art would not find any reason to attempt the determination of volume based on the temperature as the heat transfer characteristics will always be the same according to the Nakayama et al. patent.

The Brown et al. patent does not teach introducing carbon dioxide to a container while withdrawing a first carbonated fluid and measuring the temperature of the first and second carbonated fluid regions to determine the volume. Claims 1 through 6 inclusive and claims 9 through 14 inclusive recite introducing carbon dioxide to a container while withdrawing a first carbonated fluid and measuring the temperature of the first and second carbonated fluid regions to determine the volume.

If one were to look to the Nakayama et al. patent one would find no reason to make the measurement suggested by the Brown et al. patent as it would be impossible to determine the desired volume indicia in the device suggested by the Nakayama et al.

patent. Thus, the rejection based on the Nakayama et al. patent in view of the Brown et al. patent should be removed.

Claim 10 is directed to a method reciting placing the container in a refrigerator. The Nakayama et al. patent clearly shows that the container therein is not in a refrigerator. The Brown et al. patent discusses placing the container in a refrigerator. Thus, claim 10 cannot be obvious from the combination of the Nakayama et al. patent in view of the Brown et al. patent as there is no reason to modify either patent to make up for the deficiency of the other. Therefore, the rejection to claim 10 should be removed.

Claim 13 recites wiping the temperature-measuring device with a water moistened cloth wherein the temperature of the water moistened cloth is less than 105 ° F. The Nakayama et al. patent never mentions any temperature measurement and therefore cannot have any bearing on claim 13. The Brown et al. patent explicitly teaches avoiding utilizing hot water, mostly likely as the minimum 110 degree ° F suggested on the Hammerhead Products Accu-Level propane tank gauge label (of record) is sufficient to burn tender skin. Moreover, the Brown et al. patent never teaches utilizing a cloth for any purpose. The applicant has found a wet bar rag to be sufficient to make the claimed measurement.

The Examiner has stated regarding claim 14, that it is well known in the art to have a keg pressure below 100 psi. The Examiner has first ignored the fact that claim 14 recites a range and not merely a value of 100 psi. Secondly, the Examiner is called upon to either provide a literature reference for his assertion or to enter an affidavit under 37 CFR 1.104 (d) (2) stating his personal knowledge as to assertion. Failure to provide such a reference or an affidavit will be a conclusive presumption that no such fact exists. As is later discussed the pressure of the keg may be a critical factor to proper functioning of the invention.

Claim 7 has been cancelled and thus no discussion of any rejection to claim 7 is made.